

Remarks

In response to the Office Action mailed July 29, 2005 from the United States Patent and Trademark Office, claim 1 is herein amended and is thereby directed to the subject matter of the elected restriction group.

Support for this amendment is found in claim 1 as originally filed. No new matter is added by the present amendment. Applicants reserve the right to prosecute claims having the scope of claims as originally filed in this application, or in another application having the same priority date.

Abstract

The Office Action on p. 3 ¶4 objects to the abstract because it is more than one page.

Applicants point out that there is no requirement that the abstract be limited to one page. In fact, MPEP 608.01(b) states that "the sheet or sheets presenting the abstract may not include other parts of the application or other material. The abstract in an application filed under 35 U.S.C. 111 may not exceed 150 words in length."

However, in the interest of prosecuting the application to a finding of allowance, Applicants herein amend the Abstract, and also submit a Substitute Abstract that is limited to one page in length, attached hereto as Appendix A. The abstract is here amended further to reflect the elected subject matter.

Claim Objections

The Office Action on p. 3 ¶6 objects to claim 1 because of the following informalities: "R<sup>12</sup> is .... NR<sup>8</sup>R<sup>9</sup>[".]

Applicants assert that claim 1 in the application as originally filed on p. 111 line 2 shows the chemical group NR<sup>8</sup>R<sup>9</sup> without bracket. Therefore, Applicants' representative respectfully requests information from the Examiner on a further procedure to address removal of the bracket in claim 1 as published.

Claim 1 complies with 35 USC §112 ¶2

The Office Action on p. 4 ¶ 7(a) rejects claim 1 wherein the phrase "aminocarbocycle" and "aminoheterocycle" are not clear.

An applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning(s). See *In re Paulsen*, 30 F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994). Furthermore, where an explicit definition is provided for a term in an application as filed, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999).

The application as originally filed on p. 16 lines 20-22 defines "C<sub>3</sub>-C<sub>6</sub> aminocarbocycle" as a cyclic amino group formed by a nitrogen contained in a ring having 3 to 6 carbon atoms, such as, for example, azetidino, pyrrolidino, piperidino, perhydroazepino. Similarly, the application as originally filed on p. 16 lines 23-25 defines "C<sub>2</sub>-C<sub>5</sub> aminoheterocycle" as a cyclic amino group formed by a nitrogen contained in a ring having 2 to 5 carbon atoms and one other heteroatom, such as, for example, morpholino, thiomorpholino, piperazino.

Applicants as lexicographers have complied with the legal requirements by explicitly providing definitions of the terms. Therefore, this rejection can be withdrawn, an action that is respectfully requested.

The Office Action on p. 4 ¶7(b) rejects claim 1 with respect to the phrase "A and R<sup>2</sup> jointly form a C<sub>3</sub>-C<sub>6</sub> aminocarbocycle or a C<sub>2</sub>-C<sub>5</sub> aminoheterocycle optionally substituted at each position with R<sup>7</sup>" asserting that the substitution can only be at the carbon atoms, rather than at each position.

Claim 1 as here amended is directed to A and R<sup>2</sup> that jointly form a C<sub>3</sub>-C<sub>6</sub> aminocarbocycle or a C<sub>2</sub>-C<sub>5</sub> aminoheterocycle optionally substituted at each carbon position with R<sup>7</sup>. Therefore this rejection can be withdrawn, an action that is respectfully requested.

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Amendment and Response

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Summary

On the basis of the foregoing amendments and reasons, Applicants respectfully submit that the application is in condition for allowance, which is respectfully requested. If there are any questions regarding these remarks, the Examiners are invited and encouraged to contact Applicants' representative at the telephone number provided.

Respectfully submitted,



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